



Phase II Municipal Stormwater Management Grants

Program Guidelines FY 2006

(July 1, 2005 – June 30, 2006)

August 2005

Ecology Publication 05-10-077

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Chapter 1: Overview, Application, and Award Provisions

How to Use These Guidelines

These guidelines describe how to apply for water quality financial assistance under the Phase II Municipal Stormwater Grants Program from the Washington State Department of Ecology (Ecology) Water Quality Program. The guidelines also explain what will be required of an applicant once a grant is awarded. The Table of Contents lists the topics covered in each section. The guidelines are not meant to be a comprehensive listing and explanation of all rules and policies that may apply to funding. The guidelines are intended to facilitate the application process and initial steps of administering a funded project. Applicants should request additional information and consultation whenever needed.

The Appendices of these guidelines contain additional information that will be useful to most applicants. Please review the list of appendices and use them as a resource.

Overview and Purpose of the Program

The purpose of the Phase II Municipal Stormwater Grants Program is to provide “seed” funds to state of Washington communities to help them develop capacities to meet Phase II Municipal Stormwater Management Permit needs. The federal Environmental Protection Agency (EPA) mandated that a National Pollutant Discharge Elimination Permit System (NPDES) be issued throughout the state of Washington. For those local governments that have proceeded on their own initiative to establish capacities, the program will provide some of the funds needed to help as they revise and update those initial efforts.

Ecology’s Water Quality Program recognizes that without financial assistance it will be difficult for many Washington State communities to meet their permit requirements. Ecology helped develop the legislation passed by the 2005 Legislature, which provided \$2.7 million to help the jurisdictions with the greatest need. The financial need for stormwater infrastructure and management is yet to be fully documented, but it may be as great as the need for community domestic wastewater collection and treatment.

A brief overview of these Guidelines is provided as Appendix A, *Framework - At a Glance for the FY 2006, Phase II Municipal Stormwater Grants Program*.

Stormwater Management Needs - Where We Are Today

Stormwater is a leading contributor to water pollution in our urban waterways. As urban areas grow, stormwater is Washington’s fastest growing water quality problem. While many local governments have established stormwater programs and are addressing stormwater infrastructure needs, historically their focus was to address stormwater flooding problems and only to incidentally address the water quality impacts associated with urban stormwater runoff.

There are at least three (3) regulatory programs that are changing this focus:

- EPA-mandated National Pollutant Discharge Elimination Permit System (NPDES) Phase II Municipal Stormwater Requirements
- Water cleanup plans that calculate Total Maximum Daily Loads (TMDLs) on urban water bodies
- Water quality issues, such as endangered and threatened species, watershed plans, underground injection issues, etc.

Ecology estimates that as many as 115 cities and counties that own and operate regulated “small municipal separate storm sewer systems” statewide will be required, under EPA regulations, to obtain NPDES permit coverage to help control their stormwater discharges.

Development and implementation of these stormwater permits is challenging, because the regulated municipalities vary in size, hydrologic setting, existing stormwater management programs, and funding abilities.

Phase II permit recipients across the state will require local governments to:

- Control stormwater pollutants in their separate municipal storm sewer systems,
- Protect water quality, to the maximum extent practicable, and
- Comply with any applicable TMDL within the permitted entities jurisdiction.

Ecology has begun the preparation of Phase II permits. Under the current permit issuance schedule, final Phase II permits will be issued by the spring of 2006.

Activities in Projects Eligible for Grant Assistance

The following are eligible project elements. Other elements related to the development of a stormwater management program may also be eligible in accordance with the purpose of the program and the financial assistance agreement negotiated with Ecology.

- Public education, information, and communication
- Review of existing and model stormwater regulations
- Establishing and refining stormwater utilities, including stable rate structures, developing stormwater ordinances and regulations, and other capacity building activities to facilitate ongoing stormwater management needs
- Conducting inventories of stormwater sources
- Mapping and geographic information system of stormwater sources
- Source control activities, such as erosion control projects involving plantings, drain stenciling, etc.
- Completing detailed plans (e.g., general stormwater management plans, and facilities plans [including financing options and choices]) to meet the Phase II Stormwater Management NPDES Permit, etc.

Grant Award Amount

Each individual government recipient will receive a grant of up to **\$75,000**, depending on the scope of work negotiated with Ecology. Partnership grant amount provisions are described below. Recipients will be required to complete the scope of work negotiated and identified in the financial assistance agreement. There are no match requirements.

Eligible Recipients

All jurisdictions identified by Ecology who were likely to be issued a Phase II Municipal Stormwater Management NPDES Permit were evaluated by Ecology staff, assigned a financial need-based priority rank, and are presented in ranked order on the FY 2006, Phase II Municipal Stormwater Grant Program Final Priority List (Appendix B).

To be eligible for financial assistance, all communities must:

- Be among the towns, cities, and counties Ecology identified as subject to Phase II Municipal Stormwater Permit requirements (Appendix B),
- Apply during the application period, and
- Certify on the application that they have not already received funding from Ecology for the same purpose.

Financial Need Based Priority Evaluation Criteria

As an indication of a community's financial assistance need, the criteria below (in descending priority order) were used:

- Median Household Income (Percent of Statewide Average),
- Percent of Average Sales Tax Per Capita,
- Percent of Average Property Tax Per Capita,
- Population (Lower Populations Received Higher Priority), and
- Unemployment (Percent of Statewide Average).

Partnership Provisions

Ecology recognizes and encourages effective intergovernmental partnering in developing and refining stormwater management programs. The Phase II Municipal Stormwater Grants Program provides for and supports these arrangements. Furthermore, Ecology recognizes that all prospective partners may not be above the funding cutoff line and sanctions at least a limited number of special partnerships to address these needs.

All Partnerships. At the discretion of applicants, municipalities may enter into intergovernmental agreements for projects for "eligible grant assistance" on a multi-jurisdictional basis. Applications are to reference all agencies involved, but they are to be submitted by one (1) lead agency. All partnerships may be awarded one financial assistance agreement (contract). Copies of partnership interagency agreements are to be submitted with applications. All partner applicants must be from above the final funding cutoff line (except as noted in Special Partnership provisions below).

Regular Partnership (Intergovernmental) Grants. Regular Partnership grants can be provided to any two or more municipalities, all of which are above the funding cutoff line.

Special Partnership Set Aside Grant Provisions. A special set aside of \$300,000 is provided so that two or more municipalities may enter into intergovernmental agreements provided that at least *one* of the municipalities is *above* the final funding cutoff line. “Special Partnership Set Aside Grants” are limited to up to \$150,000 for any two of the partners. With this \$150,000 limitation, at least two special partnerships can be provided grants.

Total grants to multiple jurisdictions may be greater than \$150,000. Municipalities are to receive funds based on only one special partnership. Specifically, this reflects an amount up to \$75,000 per jurisdiction.

Special Partnership Selections

Priority ranking for more than two (2) special partnerships proposed will be based on weighted averages of scores for all municipalities providing an interagency agreement with the full application.

Examples of special partnerships might include:

Special Partners	Grant Amount (Up To)
One jurisdiction above the final funding cutoff line and one below the final funding cutoff line	\$150,000
Four (4) municipalities above the final funding cutoff line and one below the final funding cutoff line	\$375,000 (as only \$75,000 for the municipality below the cutoff line is allocated funds from the \$300,000 Set Aside)
Two (2) municipalities below the final funding cutoff line and one above the final funding cutoff line - unlikely, but possible , depending on the number of special partnerships proposed	\$225,000 (as the two jurisdictions below the cutoff line are at \$150,000 limit) - unlikely , as such proposals will be selected based on the weighted average point values of the three partners.

Application Period

Letters announcing the availability of funding were sent to all Phase II municipalities on August 1, 2005. These letters requested a “Letter of Intent” (sample format provided as Appendix C, Example Letter of Intent) to apply for financial assistance. These letters of intent are to be received at Ecology’s Headquarters’ Office by no later than September 15, 2005.

The letters of intent are to:

- Demonstrate a good faith commitment by jurisdictions to apply for funds for eligible project costs, and
- Accept grant assistance.

Please submit this letter to the following address:

Department of Ecology
 Water Quality Program
 P.O. Box 47600
 Olympia, WA 98504-7600
 Attn: Dan Filip

For further information about the letter of intent and application process, contact:

Dan Filip: (360) 407-6509
 Fax: (360) 407-6426
 Email: dfil461@ecy.wa.gov

By November 15, 2005, a *Fiscal Year 2006 Phase II Municipal Stormwater Grants Program Financial Assistance Application* (Appendix D) needs to be submitted for your jurisdiction alone (or in partnership with other eligible communities). The application may be submitted in lieu of the letter of intent, provided that the application is received on or before September 15, 2005.

Ecology’s Water Quality Program recognizes that effective partnerships may take time to develop. Therefore, Ecology has provided a two-and-one-half month application development period to establish these partnerships and formally develop inter-jurisdictional agreements.

Only one letter of intent and one application is needed for partnerships, but the proposed recipient is to submit the letter of intent and application in coordination with all partners.

If funds remain after letters of intent are submitted, another request will be distributed on to municipalities in accordance with rankings on the priority list. Any “second round applicants” will have the same interval of time afforded those offered financial assistance on August 1, 2005. For the second round of applicants, Letters of Intent will be needed by December 15, 2005, and applications will be due by February 15, 2006.

The Application

The *Fiscal Year 2006 Phase II Municipal Stormwater Grants Program Financial Assistance Application* is available as Appendix D, is online at: <http://www.ecy.wa.gov/programs/wq/funding/2006/>, or may be requested by calling the Water Quality Program Financial Management Section Secretary at (360) 407-6502.

Financial Assistance Offer and Award Provisions

Eligible highest priority applicants were offered funding up to the established individual grant amount¹ (e.g., \$75,000 or partnership grant amounts - See Table 1).² Offer letters identified Ecology staff that will be available to help with applications and to negotiate financial assistance agreements.

For offers made on August 1, 2005, financial assistance agreements must be signed by the Water Quality Program Manager no later than **May 1, 2006**, which is **nine (9) months** from the date of the offer letter. Agreements may be negotiated as soon as Ecology receives, and formally acknowledges receipt of, a completed application. Agreements must be signed before eligible grant costs can be incurred.

Table 1 - Maximum Grant Assistance for Each Type of Grant

Type of Grant	Maximum Grant Assistance (based on scope of work outlined in application)
Individual Grant Amount for One (1) Municipality	Up to \$75,000
Regular Partnership grant amount³	
• Two (2), Three (3), and Four (4), etc. Municipalities	Multiples of \$75,000, e.g. up to \$150,000, \$225,000, etc. (depending on the scope of work provided)
• Special Partnership Set Aside Grant Provisions³	Up to \$150,000 of the 300,000 is available for any two of the partners. At least one of the municipalities is to be above the final funding cutoff line. Scores for all special partnership jurisdictions are averaged (weighted) to set priorities if these proposals exceed \$300,000.

¹ Established individual grant amount: Up to \$75,000 (depending on the scope of work provided). See Table 1. *Maximum Grant Assistance for Each Grant Type per Number of Municipalities.*

² Partnership grant amounts: Multiples of up to \$75,000, e.g., up to \$150,000, \$225,000, etc. (depending on the scope of work provided). See Table 1.

³ All partnership projects proposed must be from applicants above the final funding cutoff line (except as noted in Special Partnership Provisions). All partnership projects proposed provide an interagency agreement with the financial assistance application. Projects are to be for “eligible grant assistance” on a multi-jurisdictional basis. Applications are to reference all agencies involved, but they are to be submitted by one (1) lead agency. The financial assistance agreement will be with the lead agency. Special and regular partnerships may be issued a combined financial assistance agreement.

Post Project Assessment

Ecology has been directed by the Legislature to implement an outcome-focused approach with qualitative and quantitative performance measures to ensure that state money invested through water quality loans and grants leads to the greatest possible environmental benefit. Ecology has identified performance measures to be assessed after the project is completed.

Water Quality Performance Measures (Goals, Outcomes, and Milestones)

Recipients of financial assistance will measure and report on the relationship between project activities and measurable improvements, ability to meet permit requirements, and to ultimately improve and protect the environment. Success of water quality improvement projects and programs is measured against progress toward attaining Goals, Outcomes, and Milestones. These performance measures will become part of the financial assistance agreement.

Goals are tangible environmental changes for the better to be achieved or directly addressed by the project proposed:

- a. **Regulatory compliance achieved** to address the National Pollutant Discharge Elimination Permit System (NPDES) Phase II Municipal Stormwater Permit requirements, and *potentially*
- b. **Designated beneficial uses restored or protected** - i.e., a water body is restored or prevented from being listed on the 303(d) List. The recipient will be expected to provide clear documentation, including data with clear explanations, showing surface or groundwater quality standard violations or that they are seriously threatened (e.g., 303(d) listing or data showing probable listing).

Outcomes are quantitative results realistically anticipated from the project that will directly lead to the water quality goal(s). For example: the outcome of the project may be to be in compliance with the implementation schedule of the Phase II Municipal Stormwater Permit. For more advanced implementation projects funded by the State Revolving Fund loan program, on water-quality limited water bodies the outcome may include demonstrably improving water quality and perhaps achieving restoration of designated uses. On these water bodies the outcomes may instead include prevention of threats to designated uses.

Project Milestones are performance actions that measurably lead to achieving the "Outcomes and Goals". For example:

- Five meetings of the Stormwater Task Force held by October 31, 2006.
- Draft Stormwater Management Program completed by December 1, 2006,
- Final Stormwater Management Program adopted by June 30, 2007, etc.

The applicant is asked to determine and explain measures of its success by gauging the progress made toward reaching these targets. Short- and long-term monitoring need to be components of all projects in order to ensure that all targets are achieved.

Chapter 2: Developing and Managing a Phase II Municipal Stormwater Grants Program Agreement

Financial Assistance Agreements Overview

The grant agreement, referred to as the financial assistance agreement or agreement, is the formal written contractual arrangement signed by authorized representatives of the recipient and Ecology. The agreement includes at a minimum: an approved scope of work, total project costs, a budget, and performance schedule.

Grant Offers

Ecology prepared and distributed the Final Priority List when funding priorities were set. On August 1, 2005, offer letters were sent to those jurisdictions on the fundable portion (at that time) of the Final Priority List. Ecology assigned a project manager and a financial manager to work with each applicant to develop a completed financial assistance application and financial assistance agreement. Following the application process, during which applicants formally indicate that they will accept financial assistance offered, Ecology's project manager will contact the applicant and Ecology's financial manager to discuss the development of a preliminary scope of work, as identified in the application, and any conditions of the offer, procedures and timeline of the agreement negotiations, time frame of the project, special conditions, and any additional information needed to begin developing the agreement.

Scope of Work

The agreement must contain a detailed scope of work describing the project work elements, performance measures (see above), and measurable task objectives, including a performance schedule with specific milestones, regular reporting dates, and/or deliverables related to project outcomes and goal(s). Ecology's project manager will contact the applicant and develop a schedule to negotiate the agreement.

Project Budget

The agreement must include a project budget that establishes eligible costs for task elements and/or budget objects. The budget will also detail funding sources, amounts, and type of matching requirements. Ecology's financial manager will help answer questions about budget development during project negotiations.

Disbursement of Grant Funds

Funds used by municipalities will be disbursed on a cost-incurred basis in accordance with required performance measures negotiated in the financial assistance agreement.

Progress Reports

Progress reports are due quarterly or with each payment request or other schedule established in the financial assistance agreement. If no schedule is established in the financial assistance agreement, progress reports will be due quarterly. Reports are to be submitted regardless of level of work completed during the period, and they are required for timely processing of disbursement requests.

General Terms and Conditions

General Terms and Conditions are general requirements contained in all Ecology loan and grant agreements and are not negotiable. Some of those terms and conditions are explained more fully in the *Administrative Requirements for Grants and Loans*, Publication No. 91-18, available at <http://www.ecy.wa.gov/biblio/9118.html> and a copy of the current General Terms and Conditions, provided as Appendix F. General Terms are subject to change depending on program needs.

Special Terms and Conditions

Special Terms and Conditions are written into an agreement to modify or clarify project elements that are specific to the project or to program guidelines. Special Terms and Conditions are consistent with the General Terms and Conditions, but may modify certain provisions of the General Terms and Conditions. Such Special Terms and Conditions take precedence over the General Terms and Conditions.

Required Performance

The agreement contains Required Performance milestones derived from the applicant's application and are negotiated between Ecology's project manager and the applicant. These milestones are to ensure that Outcomes and Goals are achieved.

Signature Process

Once a scope of work has been negotiated between the applicant and Ecology, the project manager provides the scope, and any other information needed to draft a financial assistance agreement, to the financial manager. The financial manager drafts a financial assistance agreement and routes it to staff at Ecology's Headquarters office to check legality, cost coding, etc. Once it is returned to the financial manager, it is prepared as the final agreement and three original agreements are forwarded to the applicant for signature.

The applicant is asked to thoroughly review the agreement and have all three copies signed by the authorized signatory, or the signatory's designee, before returning them to the financial manager for final signature by the Water Quality Program Manager. One copy of the completed agreement is returned for the recipient's files. The agreement becomes effective on the date of signature by the Water Quality Program Manager, unless otherwise stated in the agreement or the date of prior authorization provided in a letter from the Water Quality Program Manager, at which time reimbursable costs can be incurred to the project.

Important Dates

To allow only the highest priority projects whose sponsors are ready to proceed, the following datelines were established.

- The financial assistance agreement for the project is to be signed by both the applicant and Ecology no later than **May 1, 2006: nine (9) months** after the date of the August 1, 2005, offer letter.
- **Actual work on the project must begin** no later than **four (4) months** after the effective date of the financial assistance agreement.
- The project must be **completed in a timely manner**, in general, within two years of the effective date.
- The **effective date** of a financial assistance agreement is the date it is signed by Ecology's Water Quality Program Manager, unless otherwise stated in the agreement or the date of prior authorization provided in a letter from the Water Quality Program Manager. All costs incurred before the effective date of the agreement in the absence of written prior authorization are ineligible for reimbursement.
- The **expiration date** (of an agreement or an amendment) is the last date on which costs may be incurred and be considered eligible. Any costs incurred after the expiration date are not eligible.
- The **project completion date** is the last date that a funding recipient may incur grant eligible costs and receive reimbursement under the financial assistance agreement. All items identified in the scope of work must be completed by this date. Costs incurred after the completion date will not be considered eligible.

Prior authorization is written authorization for the recipient to incur eligible project costs before the Water Quality Program Manager signs the agreement. Prior authorization can only be issued after the publication of these Program Guidelines and after the applicant has been offered funding. Work performed by the applicant that is not consistent with the conditions specified in Ecology's prior authorization letter, financial assistance agreement, and applicable criteria will not be eligible for reimbursement. Reasons for granting prior authorization to incur expenses include, but are not limited to:

- Circumstances associated with a public health or environmental emergency requiring immediate corrective action.
- Circumstances associated with a permit schedule requiring immediate corrective action or binding permit requirements to proceed.
- Environmental conditions requiring a funding recipient to meet certain schedules. For example, the time of year for in-stream work or tidal considerations.

Process for Obtaining Prior Authorization:

- The applicant signatory must write a letter to Ecology's Water Quality Program Manager requesting and justifying prior authorization with estimated costs to be incurred and the time frame.
- Ecology cannot release funds until a loan or grant agreement is signed.
- Costs incurred before the prior authorization date are the sole responsibility of the public body.
- The applicant assumes responsibility for costs incurred before a loan or grant agreement has been signed, as Ecology cannot guarantee that a loan or grant will be awarded.

List of Appendices

Appendix A - Framework - At a Glance for the FY 2006, Phase II Municipal Stormwater Grants Program

Appendix B – Fiscal Year 2006 Phase II Municipal Stormwater Grant Program - Final Priority List

Appendix C - Example Letter of Intent

Appendix D - Fiscal Year 2006 Phase II Municipal Stormwater Grants Program
Financial Assistance Application

Appendix E - Financial Need

Appendix F - General Terms and Conditions Pertaining to Grant and Loan Agreements of
the Department of Ecology

Appendix A
Framework - At a Glance for the
Fiscal Year 2006 Phase II Municipal Stormwater Grants Program

Program Purpose	Provide “seed” funds to local governments to help them develop capacities (plans, rate structures, etc) to meet Phase II, Municipal Stormwater Management NPDES Permit needs. For those local governments that have proceeded on their own initiative, the grant program would provide funds to assist them in revising and updating their planning efforts to meet the new permit requirements.
Eligibility of Prospective Applicants	<ul style="list-style-type: none"> • Be listed on Ecology’s list of prospective Phase II Stormwater Permit Recipients • Apply during the application period • Certify that Ecology has not provided financial assistance for the same purpose.
Total Funds Available	\$2,700,000 for grants appropriated by the 2005 Legislature
Special Partnership Set Aside	\$300,000 (see Special Provisions below)
Funds for General Distribution	\$2,400,000 based on financial need based criteria
Activities in Projects Eligible for Grant Assistance	<ul style="list-style-type: none"> • Public education, information, and communication; • Establishing and refining stormwater utilities (including stable rate structures, developing stormwater ordinances and regulations, and other capacity building activities to facilitate ongoing stormwater management needs); • Mapping and geographic information system of stormwater sources; • Review existing and model stormwater regulations; • Conducting inventories of stormwater sources; • Source control activities, such as erosion control projects involving plantings, drain stenciling, etc.; • Completing detailed plans: e.g., general stormwater management plans, and facilities plans (including financing options and choices) to meet the Phase II Stormwater Management NPDES Permit requirements, etc.
Priority List and Evaluation Criteria Used (Descending priority order)	<ul style="list-style-type: none"> • Median Household Income (percent of state average), • Percent of Average Sales Tax Per Capita, • Percent of Average Property Tax Per Capita, • Population (Lower populations received higher priority), and • Unemployment (percent of 3-year state average).
Partnership Grant Provisions (All)	<ul style="list-style-type: none"> • At the discretion of applicants • Applicants may enter into intergovernmental agreements, for projects on a multi-jurisdictional basis. • For “eligible grant assistance” projects (see above) • Lead agencies identified as the proposed recipients are to submit applications. • All partnerships may be awarded one financial assistance agreement (contract).
“Regular Partnership” (Intergovernmental) Grants	<ul style="list-style-type: none"> • Any two or more municipalities <i>above</i> the funding cutoff line
“Special Partnership” Set Aside Grant Provisions	<ul style="list-style-type: none"> • A special set a side of \$300,000 is provided to two or more municipalities <p>Special Partnership Set Aside Grants are limited to up to \$150,000 for “eligible grant assistance” (see above) projects for any two (2) municipalities that enter into intergovernmental agreements provided that, at least <i>one</i> of the municipalities is <i>above</i> the final funding cutoff line.</p>
Special Partnership Selections (if eligible recipient requests total more than \$300,000)	<ul style="list-style-type: none"> • If more than \$300,000 is requested for special partnerships, • Priority ranking based on weighted averages of scores for all municipalities in the proposed partnership • Copies of any partnership agreements are to be submitted with applications.

Application Provisions	<ol style="list-style-type: none"> 1. Letters announcing the availability of funding and offering funds were sent to all Phase II municipalities on August 1, 2005. 2. A “Letter of Intent” (example format provided) to apply for assistance is to be received from the applicant at Ecology’s Headquarters’ Office by no later than September 15, 2005. 3. Letters of Intent should identify proposed recipient and proposed partner agencies. 4. Applicants must complete an application to be received at Ecology’s Headquarters’ Office by no later than November 15, 2005. 5. Copies of any partnership agreements are to be submitted with applications. 6. If funds remain after letters of intent are submitted, another request will be distributed to municipalities in accordance with rankings on the priority list. 7. Second-round applicants will have the same interval of time afforded the first round: Letters of Intent by December 15, 2005, applications by February 15, 2006.
Offer and Award Provisions	<ul style="list-style-type: none"> • Offer letters will identify Ecology staff that will be available to negotiate financial assistance agreement. • Eligible applicants above the final funding cutoff line will be offered funding up to the established individual grant amount¹ (e.g., \$75,000 or partnership grant amounts - See Table 1 below).² • Offers will be effective for nine (9) months from the date of the offer letter (May 1, 2006). • Agreements must be signed before eligible grant costs can be incurred.
Match Provisions	<ul style="list-style-type: none"> • No match is required, but recipients will be required to complete the scope of work identified in the financial assistance agreement.
Disbursement of Grant Funds	<ul style="list-style-type: none"> • Funds will be disbursed in accordance with required performance measures negotiated in the financial assistance agreement on a cost-incurred basis.
Progress Reports	<ul style="list-style-type: none"> • Due quarterly, regardless of the amount of work, or disbursement requested.

Table 1 - Maximum Grant Assistance for Each Grant Type per Number of Municipalities

Type of Grant	Maximum Grant Assistance (based on scope of work outlined in application)
Individual Grant Amount for One (1) Municipality	Up to \$75,000
“Regular Partnership” Grant Amount³	
Two (2), Three (3), and Four (4), etc. Municipalities	Multiples of \$75,000, e.g., up to \$150,000, \$225,000, etc. (depending on the scope of work provided)
Special Partnership Set Aside Grant Provisions³	Up to \$150,000 of the 300,000 is available for any two of the partners. At least one of the municipalities is to be above the final funding cutoff line. Scores for all special partnership jurisdictions are averaged (weighted) to set priorities if these proposals exceed \$300,000.

¹ Established individual grant amount: Up to \$75,000 (depending on the scope of work provided). See Table 1 - *Maximum Grant Assistance for Each Grant Type per Number of Municipalities*.

² Partnership grant amounts: Multiples of up to \$75,000, e.g., up to \$150,000, \$225,000, etc. (depending on the scope of work provided). See Table 1.

³ All partner applicants must be above the final funding cutoff line (except as noted in Special Partnership Provisions). All partnership projects proposed provide an interagency agreement with the financial assistance application. Projects are to be for “eligible grant assistance” on a multi-jurisdictional basis. Applications are to reference all agencies involved, but they are to be submitted by one (1) lead agency. The financial assistance agreement will be with the lead agency. Partnerships will receive a combined financial assistance agreement with the lead agency identified as the “recipient.”

Appendix C
- Example -
Letter of Intent to Apply for Financial Assistance
from the Phase II Municipal Stormwater Grants Program

Project Title:		
Applicant Name (City, Town, or County):		
Partnering Jurisdictions With Which You <u>May</u> Apply:		
Name of Applicant Signatory (Please Print):		Signature:
Applicant Staff Contact:		
Name:		
Title:	Telephone Number:	E-Mail Address:
Mailing Address:		

The following is a NON-BINDING list of elements your project might include; you may use it, at your option.

- Public education, information, and communication;
- Establishing OR refining stormwater utilities, including stable rate structures, and other capacity building activities to facilitate ongoing stormwater management needs);
- Conducting inventories of stormwater sources;
- Mapping stormwater sources;
- Geographic information system of stormwater sources;
- Source control activities, such as erosion control projects involving plantings, drain stenciling, etc.;
- Review existing local stormwater regulations; your own or others (underline one or both);
- Completing general stormwater management plans, and facilities plans (underline one or both), including financing options and choices, to meet the Phase II Stormwater Management NPDES Permit, etc.; or
- Other (*Please note below*)

PROJECT SUMMARY - *In one to a few sentences, please briefly summarize the project.*

Total Project Cost - *This amount represents the full cost of the project:* \$ _____

Ecology Grant Request - *This amount is the amount up to which the applicant is eligible to receive:* \$ _____

Questions about this example? Contact Dan Filip of Ecology's Water Quality Program at: P.O. Box 47600, Olympia, WA 98504-7600 - Phone (360) 407-6509, Fax (360) 407-6426, or e-mail dfil461@ecy.wa.gov.

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**Appendix D
Fiscal Year 2006 Phase II Municipal Stormwater
Grants Program**

ECOLOGY USE

Application no. _____

Financial Assistance Application

1. PROJECT TITLE: <i>(five words or less)</i>	
2. PHASE II STORMWATER NPDES PERMIT NO., OR ANTICIPATED DATE OF ISSUANCE:	
3. APPLICANT NAME: <i>(city, town, or county)</i>	4. FEDERAL IDENTIFICATION NO:
5. PARTNERING AGENCIES: <i>(from whom interagency agreement[s] are appended)</i>	

6. APPLICANT SIGNATORY: <i>(the person whose name is listed here must sign section 12 of this application)</i>	
Name:	
Title:	Telephone Number:
Address:	

7. APPLICANT STAFF CONTACT:		
Name:		
Title:	Telephone Number:	E-Mail Address:
Address:		

8. PROJECT INFORMATION:
What is the population in the PROJECT area? _____

The total of each separate designation (County, Legislative District, Congressional District, and WRIA) must equal 100%. Please list in descending order and break ties by at least one percent.

County(ies) for the Project:	
Name	Percent

State Legislative District(s) for the Project:			
	Number	Percent	

Congressional District(s) for the Project:			
	Number	Percent	

Water Resource Inventory Area(s) - WRIAs - for the Project:			
	Number	Percent	

9. ELIGIBLE PROJECT COST <i>(that portion of the project cost that is grant eligible)</i>	\$ _____
10. ECOLOGY GRANT REQUEST <i>(the amount up to which the applicant is eligible to receive, according to the FY 2006 Guidelines for the Phase II Municipal Stormwater Grants Program)</i>	\$ _____

11. PROJECT DURATION:

Anticipated Start Date: _____

Project Length: _____ months

Anticipated Project Completion Date: _____

12. PROJECT OUTLINE AND IN 250 WORDS OR LESS (IF POSSIBLE) SUMMARY:

OUTLINE - Check as many as pertain (Double click on box and click check, if you'd like)

- Public education, information, and communication;
- Establishing OR refining stormwater utilities (underline one), including stable rate structures, and other capacity building activities to facilitate ongoing stormwater management needs); please specify in the SUMMARY
- Conducting inventories of stormwater sources;
- Mapping stormwater sources
- Geographic information system of stormwater sources;
- Source control activities, such as erosion control projects involving plantings, drain stenciling, etc.; please specify in the SUMMARY
- Review existing local stormwater regulations; your own or others (underline one or both).
- Completing general stormwater management plans, and facilities plans (underline one or both), including financing options and choices, to meet the Phase II Stormwater Management NPDES Permit, etc.
- Other (Please Specify below in the SUMMARY)

SUMMARY - Please briefly summarize the project below and include how you will monitor success.

13. APPLICATION CERTIFICATION:

I CERTIFY TO THE BEST OF MY KNOWLEDGE THAT THE INFORMATION IN THIS APPLICATION IS TRUE AND CORRECT, THAT THIS JURISDICTION HAS NOT RECEIVED WATER QUALITY PROGRAM ADMINISTERED FUNDS FOR THE SAME PURPOSE, AND THAT I AM THE LEGALLY AUTHORIZED SIGNATORY OR DESIGNEE FOR THE SUBMITTAL OF THIS INFORMATION ON BEHALF OF THE APPLICANT.

Printed Name	Signature
Title	Date

14. APPLICATION SUBMITTAL INFORMATION: THE APPLICATION IS TO BE RECEIVED NO LATER THAN TUESDAY, NOVEMBER 15, 2005 at 5:00 p.m. at:

<u>U.S. Postal Mailing Address:</u>	<u>Overnight Mail or Hand Delivery Address:</u>
Department of Ecology Water Quality Program Financial Management Section P.O. Box 47600 Olympia, WA 98504-7600	Department of Ecology Water Quality Program Financial Management Section 300 Desmond Drive Lacey, WA 98503

Appendix E

Matrix Showing Financial Need Rank Calculations for the Phase II Municipal Stormwater Grants Program

Rank Order by Municipality			Criteria and Scores with Total Points ¹					
Rank ²	Municipality	County	Sales Tax Criterion H,M,L,N	Property Tax Criterion H,M,L,N	Population Criterion - H,M,L,N	Median Household Income (MHI) Criterion - H,M,L,N	Unemployment Criterion - H,M,L,N	SCORE
			12	11	10	18	5	High
			6	5	7	12	3	Medium
			4	3	3	2	2	Low
			0	0	0	0	0	None Assigned
			145.0%	125.0%	30,000	130.0%	85.0%	Low
			92.0%	98.0%	10,000	100.0%	100.0%	Medium
			72.0%	67.0%	5,000	85.5%	120.0%	High
1	Asotin City	Asotin	12	11	10	18	0	51
2	Asotin County ³	Asotin	12	11	10	18	0	51
3	Clarkston City	Asotin	12	11	7	18	0	48
4	East Wenatchee City	Douglas	6	11	7	18	3	45
5	Douglas County	Douglas	6	11	7	18	3	45
6	Kelso City	Cowlitz	6	11	3	18	5	43
7	Centralia	Lewis	6	11	3	18	5	43
8	Sunnyside	Yakima	6	11	3	18	5	43
9	Selah City	Yakima	12	5	7	12	5	41
10	Ellensburg	Kittitas	6	11	3	18	2	40
11	Franklin County	Franklin	6	11	0	18	5	40
12	Sedro-Woolley City	Skagit	6	5	7	18	3	39
13	Ferndale City	Whatcom	6	5	7	18	2	38
14	Port Orchard City	Kitsap	0	11	7	18	2	38
15	Pullman	Whitman	6	11	3	18	0	38
16	Lakewood City	Pierce	6	11	0	18	3	38
17	Aberdeen	Grays Harbor	6	5	3	18	5	37
18	Cowlitz County	Cowlitz	6	5	3	18	5	37
19	Walla Walla City	Walla Walla	6	11	0	18	2	37
20	Walla Walla County	Walla Walla	6	11	0	18	2	37
21	Spokane Valley	Spokane	6	11	0	18	2	37
22	Pasco City	Franklin	6	11	0	18	2	37
23	Battle Ground City	Clark	6	11	3	12	5	37
24	Millwood Town	Spokane	6	0	10	18	2	36
25	Washougal City	Clark	6	3	3	18	5	35
26	Port Angeles	Clallam	6	5	3	18	3	35
27	Oak Harbor	Island	6	5	3	18	2	34
28	Yakima City	Yakima	6	5	0	18	5	34
29	West Richland City	Benton	12	11	7	2	2	34
30	Union Gap City	Yakima	0	3	7	18	5	33
31	Mount Vernon City	Skagit	6	3	3	18	3	33
32	Longview City	Cowlitz	6	3	0	18	5	32 ⁱⁱ
33	Vancouver City	Clark	12	3	0	12	5	32
34	Buckley City	Pierce	12	5	10	2	3	32
35	Orting City	Pierce	12	5	10	2	3	32
36	Duvall City	King	12	11	7	0	2	32
37	Yakima County	Yakima	0	5	3	18	5	31
38	Fife City	Pierce	0	0	10	18	3	31
39	Burlington City	Skagit	0	3	7	18	3	31
40	Wenatchee City	Chelan	0	5	3	18	5	31
41	Chelan County	Chelan	0	5	3	18	5	31

¹ Criteria are based on values as current as possible, as a function of state of Washington average values.

² Ties near the apparent funding cutoff line are broken by points in descending order of criteria. When scores are still tied, the municipality with the lower median household income is given higher priority.

³ So counties required to comply with Phase II Permits could be fairly ranked with cities and towns, and visa versa, county data are based on the arithmetic mean of cities in the urban growth areas of the county - not the population of the county, e.g., the average Asotin County population is 4,203 (average of Asotin and Clark on populations). The 2004 estimated population of Asotin County is 20,700.

42	Moses Lake	Grant	0	5	3	18	5	31
43	Bremerton City	Kitsap	6	5	0	18	2	31
44	Spokane City	Spokane	6	5	0	18	2	31
45	Whatcom County	Whatcom	6	5	0	18	2	31
46	Granite Falls City	Snohomish	6	11	10	2	2	31
47	Des Moines City	King	12	11	3	2	2	30
48	Edgewood City	Pierce	12	5	7	2	3	29
49	Pacific City	King	6	11	7	2	3	29
50	Sumner City	Pierce	0	0	7	18	3	28
51	Kitsap County	Kitsap	0	5	3	18	2	28
52	Enumclaw City	King	6	5	3	12	2	28
53	University Place City	Pierce	12	11	0	2	3	28
54	Skagit County	Skagit	0	3	3	18	3	27
55	Anacortes	Skagit	6	3	3	12	3	27
56	Benton County	Benton	12	11	0	2	2	27
57	Fircrest City	Pierce	12	3	7	2	3	27
58	Steilacoom City	Pierce	12	3	7	2	3	27
59	Black Diamond City	King	12	3	10	0	2	27
60	Poulsbo City	Kitsap	0	5	7	12	2	26
61	DuPont City	Pierce	6	5	10	2	3	26
62	Brier City	Snohomish	12	5	7	0	2	26
63	Lake Stevens City	Snohomish	12	5	7	0	2	26
64	Gig Harbor City	Pierce	0	3	7	12	3	25
65	Burien City	King	6	5	0	12	2	25
66	Kennewick City	Benton	6	5	0	12	2	25
67	Mountlake Terrace	Snohomish	12	5	3	2	2	24
68	Clyde Hill City	King	12	0	10	0	2	24
69	Yarrow Point Town	King	12	0	10	0	2	24
70	Normandy Park City	King	12	3	7	0	2	24
71	Bellingham City	Whatcom	0	3	0	18	2	23
72	Algona City	King	6	3	10	2	2	23
73	Bonney Lake City	Pierce	6	11	3	0	3	23
74	Milton City	Pierce	6	5	7	2	2	22
75	Covington City	King	6	11	3	0	2	22
76	Maple Valley City	King	6	11	0	0	2	22
77	Lacey City	Thurston	6	3	0	12	0	21
78	Federal Way City	King	6	11	0	2	2	21
79	Everett City	Snohomish	6	0	0	12	2	20
80	Spokane County	Spokane	6	0	0	12	2	20
81	Camas City	Clark	12	0	3	0	5	20
82	Kenmore City	King	12	3	3	0	2	20
83	Lake Forest Park	King	12	3	3	0	2	20
84	Mukilteo City	Snohomish	12	3	3	0	2	20
85	Thurston County	Thurston	0	3	3	12	0	18
86	Arlington City	Snohomish	0	11	3	2	2	18
87	Marysville City	Snohomish	6	5	3	2	2	18
88	Hunts Point Town	King	6	0	10	0	2	18
89	SeaTac City	King	0	0	3	12	2	17
90	Tukwila City	King	0	0	3	12	2	17
91	Lynnwood City	Snohomish	0	3	0	12	2	17
92	Tumwater City	Thurston	0	0	3	12	0	15
93	Olympia City	Thurston	0	3	0	12	0	15
94	Shoreline City	King	6	5	0	2	2	15
95	Liberty Lake	Spokane	0	3	10	0	2	15
96	Newcastle City	King	6	0	7	0	2	15
97	Auburn City	King	0	0	0	12	2	14
98	Snohomish City	Snohomish	0	3	7	2	2	14
99	Sammamish City	King	12	0	0	0	2	14
100	Monroe City	Snohomish	6	0	3	2	2	13
101	Edmonds City	Snohomish	6	3	0	2	2	13
102	Richland City	Benton	6	3	0	2	2	13
103	Medina City	King	0	0	10	0	2	12
104	Bainbridge Island Cty	Kitsap	6	0	3	0	2	11
105	Mercer Island City	King	6	0	3	0	2	11
106	Mill Creek City	Snohomish	6	0	3	0	2	11
107	Woodinville City	King	0	0	7	0	2	9
108	Puyallup City	Pierce	0	3	0	2	3	8
109	Issaquah City	King	0	0	3	2	2	7
110	Bellevue City	King	0	3	0	0	2	5
111	Bothell City	Snohomish	0	3	0	0	2	5
112	Kirkland City	King	0	3	0	0	2	5
113	Kent City	King	0	0	0	2	2	4
114	Renton City	King	0	0	0	2	2	4
15	Redmond City	King	0	0	0	0	2	2

Appendix F
**General Terms and Conditions Pertaining to Grant and Loan Agreements of the
Department of Ecology**

A. Recipient Performance

All activities for which grant/loan funds are to be used shall be accomplished by the RECIPIENT and RECIPIENT's employees. The RECIPIENT shall not assign or subcontract performance to others unless specifically authorized in writing by the DEPARTMENT.

B. Subgrantee/Contractor Compliance

The RECIPIENT must ensure that all subgrantees and contractors comply with the terms and conditions of this agreement.

C. Third Party Beneficiary

The RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this agreement, the state of Washington is named as an express third-party beneficiary of such subcontracts with full rights as such.

D. Contracting For Services (Bidding)

Contracts for construction, purchase of equipment and professional architectural and engineering services shall be awarded through a competitive process, if required by State law. RECIPIENT shall retain copies of all bids received and contracts awarded, for inspection and use by the DEPARTMENT.

E. Assignments

No right or claim of the RECIPIENT arising under this agreement shall be transferred or assigned by the RECIPIENT.

F. Compliance with All Laws

1. The RECIPIENT shall comply fully with all applicable Federal, State and local laws, orders, regulations and permits.

Prior to commencement of any construction, the RECIPIENT shall secure the necessary approvals and permits required by authorities having jurisdiction over the project, provide assurance to the DEPARTMENT that all approvals and permits have been secured, and make copies available to the DEPARTMENT upon request.

2. Discrimination. The DEPARTMENT and the RECIPIENT agree to be bound by all Federal and State laws, regulations, and policies against discrimination. The RECIPIENT further agrees to affirmatively support the program of the Office of Minority and Women's Business Enterprises to the maximum extent possible. The RECIPIENT shall report to the DEPARTMENT the percent of grant/loan funds available to women or minority owned businesses.

3. Wages and Job Safety. The RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.
4. Industrial Insurance. The RECIPIENT certifies full compliance with all applicable state industrial insurance requirements. If the RECIPIENT fails to comply with such laws, the DEPARTMENT shall have the right to immediately terminate this agreement for cause as provided in Section K.1, herein.

G. Kickbacks

The RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this project to give up any part of the compensation to which he/she is otherwise entitled, or receive any fee, commission or gift in return for award of a subcontract hereunder.

H. Audits and Inspections

1. The RECIPIENT shall maintain complete program and financial records relating to this agreement. Such records shall clearly indicate total receipts and expenditures by fund source and task or object.

All grant/loan records shall be kept in a manner which provides an audit trail for all expenditures. All records shall be kept in a common file to facilitate audits and inspections.

Engineering documentation and field inspection reports of all construction work accomplished under this agreement shall be maintained by the RECIPIENT.

2. All grant/loan records shall be open for audit or inspection by the DEPARTMENT or by any duly authorized audit representative of the State of Washington for a period of at least three years after the final grant payment/loan repayment or any dispute resolution hereunder. If any such audits identify discrepancies in the financial records, the RECIPIENT shall provide clarification and/or make adjustments accordingly.
3. All work performed under this agreement and any equipment purchased, shall be made available to the DEPARTMENT and to any authorized state, federal or local representative for inspection at any time during the course of this agreement and for at least three years following grant/loan termination or dispute resolution hereunder.
4. RECIPIENT shall meet the provisions in OMB Circular A-133 (Audits of States, Local Governments & Non Profit Organizations), including the compliance Supplement to OMB Circular A-133, if the RECIPIENT expends \$300,000 or more in a year in Federal funds. The \$300,000 threshold for each year is a cumulative total of all federal funding from all sources. The RECIPIENT must forward a copy of the audit along with the RECIPIENT'S response and the final corrective action plan to the DEPARTMENT within ninety (90) days of the date of the audit report.

I. Performance Reporting

The RECIPIENT shall submit progress reports to the DEPARTMENT with each payment request or such other schedule as set forth in the Special Conditions. The RECIPIENT shall also report in writing to the DEPARTMENT any problems, delays or adverse conditions which will materially affect their ability to meet project objectives or time schedules. This disclosure shall be accompanied by a statement of the action taken or proposed and any assistance needed from the DEPARTMENT to resolve the situation. Payments may be withheld if required progress reports are not submitted.

Quarterly reports shall cover the periods January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be due within twenty (20) days following the end of the quarter being reported.

J. Compensation

1. Method of Compensation. Payment shall normally be made on a reimbursable basis as specified in the grant agreement and no more often than once per month. Each request for payment will be submitted by the RECIPIENT on State voucher request forms provided by the DEPARTMENT along with documentation of the expenses. Payments shall be made for each task/phase of the project, or portion thereof, as set out in the Scope of Work when completed by the RECIPIENT and certified as satisfactory by the Project Officer.

The payment request form and supportive documents must itemize all allowable costs by major elements as described in the Scope of Work. Instructions for submitting the payment requests are found in "Administrative Requirements for Ecology Grants and Loans," part IV, published by the DEPARTMENT. A copy of this document shall be furnished to the RECIPIENT. When payment requests are approved by the DEPARTMENT, payments will be made to the mutually agreed upon designee.

Payment requests shall be submitted to the DEPARTMENT and directed to the Project Officer assigned to administer this agreement.

2. Budget Deviation. Deviations in budget amounts are not allowed without written amendment(s) to this agreement. Payment requests will be disallowed when the RECIPIENT's request for reimbursement exceeds the State maximum share amount for that element, as described in the Scope of Work.
3. Period of Compensation. Payments shall only be made for action of the RECIPIENT pursuant to the grant/loan agreement and performed after the effective date and prior to the expiration date of this agreement, unless those dates are specifically modified in writing as provided herein.
4. Final Request(s) for Payment. The RECIPIENT must submit final requests for compensation within forty-five (45) days after the expiration date of this agreement and within fifteen (15) days after the end of a fiscal biennium. Failure to comply may result in delayed reimbursement.
5. Performance Guarantee. The DEPARTMENT may withhold an amount not to exceed ten percent (10%) of each reimbursement payment as security for the

RECIPIENT's performance and a financial bond. Monies withheld by the DEPARTMENT may be paid to the RECIPIENT when the project(s) described herein, or a portion thereof, have been completed if, in the DEPARTMENT's sole discretion, such payment is reasonable and approved according to this agreement and, as appropriate, upon completion of an audit as specified under section J.6. herein.

6. Unauthorized Expenditures. All payments to the RECIPIENT shall be subject to final audit by the DEPARTMENT and any unauthorized expenditure(s) charged to this grant/loan shall be refunded to the DEPARTMENT by the RECIPIENT.
7. Mileage and Per Diem. If mileage and per diem are paid to the employees of the RECIPIENT or other public entities, it shall not exceed the amount allowed under state law for state employees.
8. Overhead Costs. No reimbursement for overhead costs shall be allowed unless provided for in the Scope of Work hereunder.

K. Termination

1. For Cause. The obligation of the DEPARTMENT to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of the DEPARTMENT, to perform any obligation required of it by this agreement, the DEPARTMENT may refuse to pay any further funds thereunder and/or terminate this agreement by giving written notice of termination.

A written notice of termination shall be given at least five working days prior to the effective date of termination. In that event, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the RECIPIENT under this agreement, at the option of the DEPARTMENT, shall become Department property and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Despite the above, the RECIPIENT shall not be relieved of any liability to the DEPARTMENT for damages sustained by the DEPARTMENT and/or the State of Washington because of any breach of agreement by the RECIPIENT. The DEPARTMENT may withhold payments for the purpose of setoff until such time as the exact amount of damages due the DEPARTMENT from the RECIPIENT is determined.

2. Insufficient Funds. The obligation of the DEPARTMENT to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. When this agreement crosses over state fiscal years the obligation of the DEPARTMENT is contingent upon the appropriation of funds during the next fiscal year. The failure to appropriate or allot such funds shall be good cause to terminate this agreement as provided in paragraph K.1 above.

When this agreement crosses the RECIPIENT's fiscal year, the obligation of the RECIPIENT to continue or complete the project described herein shall be contingent

upon appropriation of funds by the RECIPIENT's governing body; provided, however, that nothing contained herein shall preclude the DEPARTMENT from demanding repayment of ALL funds paid to the RECIPIENT in accordance with Section O herein.

3. Failure to Commence Work. In the event that the RECIPIENT fails to commence work on the project funded herein within four months after the effective date of this agreement, or by any date mutually agreed upon in writing for commencement of work, the DEPARTMENT reserves the right to terminate this agreement.

L. Waiver

Waiver of any RECIPIENT default is not a waiver of any subsequent default. Waiver of a breach of any provision of this agreement is not a waiver of any subsequent breach and will not be construed as a modification of the terms of this agreement unless stated as such in writing by the authorized representative of the DEPARTMENT.

M. Property Rights

1. Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property, the RECIPIENT may copyright or patent the same, but the DEPARTMENT retains a royalty-free, nonexclusive and irrevocable license to reproduce, publish, recover or otherwise use the material(s) or property and to authorize others to use the same for federal, state or local government purposes.

Where federal funding is involved, the federal government may have a proprietary interest in patent rights to any inventions that are developed by the RECIPIENT as provided in 35 U.S.C. 200-212.

2. Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish information of the DEPARTMENT; present papers, lectures, or seminars involving information supplied by the DEPARTMENT; use logos, reports, maps or other data, in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to the DEPARTMENT.
3. Tangible Property Rights. The DEPARTMENT'S current edition of "Administrative Requirements for Ecology Grants and Loans," Part V, shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by the DEPARTMENT in the absence of state, federal statute(s), regulation(s), or policy(ies) to the contrary or upon specific instructions with respect thereto in the Scope of Work.
4. Personal Property Furnished by the DEPARTMENT. When the DEPARTMENT provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to the DEPARTMENT prior to final payment by the DEPARTMENT. If said property is lost, stolen or damaged while in the RECIPIENT's possession, the DEPARTMENT shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.
5. Acquisition Projects. The following provisions shall apply if the project covered by this agreement includes funds for the acquisition of land or facilities:

- a. Prior to disbursement of funds provided for in this agreement, the RECIPIENT shall establish that the cost of land/or facilities is fair and reasonable.
 - b. The RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this agreement. Such evidence may include title insurance policies; Torrens certificates or abstracts; and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses contemplated by this agreement.
6. Conversions. Regardless of the contract termination date shown on the cover sheet, the RECIPIENT shall not at any time convert any equipment, property or facility acquired or developed pursuant to this agreement to uses other than those for which assistance was originally approved without prior written approval of the DEPARTMENT. Such approval may be conditioned upon payment to the DEPARTMENT of that portion of the proceeds of the sale, lease or other conversion or encumbrance which monies granted pursuant to this agreement bear to the total acquisition, purchase or construction costs of such property.

N. Recycled/Recyclable Paper

All documents and materials published under this agreement shall be produced on recycled paper containing the highest level of post consumer and recycled content that is available. At a minimum, paper with 10 percent post consumer content and 50 percent recycled content shall be used. Whenever possible, all materials shall be published on paper that is unbleached or has not been treated with chlorine gas and/or hypochlorite.

As appropriate, all materials shall be published on both sides of the paper and shall minimize the use of glossy or colored paper and other items which reduce the recyclability of the document.

O. Recovery of Payments to Recipient

The right of the RECIPIENT to retain monies paid to it as reimbursement payments is contingent upon satisfactory performance of this agreement, including the satisfactory completion of the project described in the Scope of Work. In the event the RECIPIENT fails, for any reason, to perform obligations required of it by this agreement, the RECIPIENT may, at the DEPARTMENT'S sole discretion, be required to repay to the DEPARTMENT all grant/loan funds disbursed to the RECIPIENT for those parts of the project that are rendered worthless in the opinion of the DEPARTMENT by such failure to perform.

Interest shall accrue at the rate of twelve percent (12%) per annum from the time the DEPARTMENT demands repayment of funds. If payments have been discontinued by the DEPARTMENT due to insufficient funds as in Section K.2 above, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination. Any property acquired under this agreement, at the option of the DEPARTMENT, may become the DEPARTMENT'S property and the RECIPIENT'S liability to repay monies shall be reduced by an amount reflecting the fair value of such property.

P. Project Approval

The extent and character of all work and services to be performed under this agreement by the RECIPIENT shall be subject to the review and approval of the DEPARTMENT through the Project Officer or other designated official to whom the RECIPIENT shall report and be responsible. In the event there is a dispute with regard to the extent and character of the work to be done, the determination of the Project Officer or other designated official as to the extent and character of the work to be done shall govern. The RECIPIENT shall have the right to appeal decisions as provided for below.

Q. Disputes

Except as otherwise provided in this agreement, any dispute concerning a question of fact arising under this agreement which is not disposed of in writing shall be decided by the Project Officer or other designated official who shall provide a written statement of decision to the RECIPIENT. The decision of the Project Officer or other designated official shall be final and conclusive unless, within thirty days from the date of receipt of such statement, the RECIPIENT mails or otherwise furnishes to the Director of the DEPARTMENT a written appeal.

In connection with appeal of any proceeding under this clause, the RECIPIENT shall have the opportunity to be heard and to offer evidence in support of this appeal. The decision of the Director or duly authorized representative for the determination of such appeals shall be final and conclusive. Appeals from the Director's determination shall be brought in the Superior Court of Thurston County. Review of the decision of the Director will not be sought before either the Pollution Control Hearings Board or the Shoreline Hearings Board. Pending final decision of dispute hereunder, the RECIPIENT shall proceed diligently with the performance of this agreement and in accordance with the decision rendered.

R. Conflict of Interest

No officer, member, agent, or employee of either party to this agreement who exercises any function or responsibility in the review, approval, or carrying out of this agreement, shall participate in any decision which affects his/her personal interest or the interest of any corporation, partnership or association in which he/she is directly or indirectly interested; nor shall he/she have any personal or pecuniary interest, direct or indirect, in this agreement or the proceeds thereof.

S. Indemnification

1. The DEPARTMENT shall in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.
2. To the extent that the Constitution and laws of the State of Washington permit, each party shall indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this agreement

T. Governing Law

This agreement shall be governed by the laws of the State of Washington.

U. Severability

If any provision of this agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this agreement which can be given effect without the invalid provision, and to this end the provisions of this agreement are declared to be severable.

V. Precedence

In the event of inconsistency in this agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable Federal and State statutes and regulations; (b) Scope of Work; (c) Special Terms and Conditions; (d) Any terms incorporated herein by reference including the “Administrative Requirements for Ecology Grants and Loans,” and (e) the General Terms and Conditions.

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